



Department of Transportation

National Highway Traffic Safety Administration

[Docket No. NHTSA-2011-0063; Notice 2]

Jaguar Land Rover North America, LLC, on behalf of  
Jaguar Cars Limited, Grant of Petition for Decision of  
Inconsequential Noncompliance

**AGENCY:** National Highway Traffic Safety Administration (NHTSA),  
Department of Transportation (DOT)

**ACTION:** Grant of Petition

**SUMMARY:** Jaguar Land Rover North America, LLC, on behalf of Jaguar Cars Limited (collectively referred to as "Jaguar") has determined that model year 2010 and certain 2011 Jaguar XJ passenger cars manufactured between September 11, 2009 and March 28, 2011, do not fully comply with paragraphs S5.2.1 and S5.5.2 of Federal Motor Vehicle Safety Standard (FMVSS) No. 101, *Controls and displays*, regarding brake system-related telltales. Jaguar has filed an appropriate report pursuant to 49 CFR Part 573, *Defect and Noncompliance Responsibility and Reports*, dated April 15, 2011.

**ADDRESSES:** For further information on this decision contact Mr. Stuart Seigel, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone (202)366-5287, facsimile (202) 366-7002.

**SUPPLEMENTARY INFORMATION:**

**I. Jaguar's Petition:** Pursuant to 49 U.S.C. 30118(d) and 30120(h) and the rule implementing those provisions at 49 CFR Part 556, Jaguar has petitioned for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety.

Notice of receipt of the petition was published, with a 30-day public comment period, on August 26, 2011 in the Federal Register (76 FR 53532). No comments were received. To view the petition, and all supporting documents log onto the Federal Docket Management System (FDMS) website at:

<http://www.regulations.gov/>. Then follow the online search instructions to locate docket number "NHTSA-2011-0063."

**II. Vehicles Involved:** Affected are approximately 8,621 model year 2010 and 2011 Jaguar XJ passenger cars that were manufactured at Jaguar's Castle Bromwich assembly plant between September 11, 2009 and March 28, 2011.

**III. Rule Text:** Paragraphs S5.2.1 and S5.5.2 of FMVSS No. 101 specifically state:

S5.2.1 Except for the Low Tire Pressure Telltale, each control, telltale and indicator that is listed in column 1 of Table 1 or Table 2 must be identified by the symbol specified for it in column 2 or the word or abbreviation specified for it in column 3 of Table 1 or Table 2. If a symbol is used, each symbol provided pursuant to this paragraph must be substantially

similar in form to the symbol as it appears in Table 1 or Table 2. If a symbol is used, each symbol provided pursuant to this paragraph must have the proportional dimensional characteristics of the symbol as it appears in Table 1 or Table...

S5.5.2 The telltales for any brake system malfunction required by Table 1 to be red, air bag malfunction, low tire pressure, electronic stability control malfunction (as of September 1, 2011), passenger air bag off, high beam, turn signal, and seat belt must not be shown in the same common space.

Additionally, Table 1 Note 9 states:

Refer to FMVSS 105 or FMVSS 135, as appropriate, for additional specific requirements for brake telltale labeling and color. If a single telltale is to be used to indicate more than one brake system condition, the brake system malfunction identifier must be used.

FMVSS No. 135 is applicable to the subject vehicles. Section 5.5.5, *Labeling*, states in pertinent part:

S5.5.5. *Labeling*.

- (a) Each visual indicator shall display a word or words in accordance with the requirements of Standard No. 101 (49 CFR 571.101) and this section, which shall be legible to the driver under all daytime and nighttime conditions when activated. Unless otherwise specified, the words shall have letters not less than 3.2 mm (<sup>1</sup>/<sub>8</sub> inch) high and the letters and background shall be of contrasting colors, one of which is red. Words or symbols in addition to those required by Standard No. 101 and this section may be provided for purposes of clarity.
- (d) If separate indicators are used for one or more of the conditions described in S5.5.1(a) through S5.5.1(g), the indicators shall display the following wording:
  - (1) If a separate indicator is provided for the low brake fluid condition in S5.5.1(a)(1), the words **"Brake Fluid"** (emphasis added) shall be used except for vehicles using hydraulic system mineral oil.

- (2) If a separate indicator is provided for the gross loss of pressure condition in S5.5.1(a)(2), the words "Brake Pressure" (emphasis added) shall be used.
- (3) If a separate indicator is provided for the condition specified in S5.5.1(b), the letters and background shall be of contrasting colors, one of which is yellow. The indicator shall be labeled with the words "Antilock" or "Anti-lock" or "ABS"; (emphasis added) or "Brake Proportioning," in accordance with Table 2 of Standard No. 101.
- (4) If a separate indicator is provided for application of the parking brake as specified for S5.5.1(c), the single word "Park" (emphasis added) or the words "Parking Brake" (emphasis added) may be used.

IV. **Summary of Jaguar's Analyses:** Jaguar explains that the noncompliance for the 8,621 XJ vehicles is that the telltales used for brake warning, park brake warning and Antilock Braking System (ABS) failure warnings are displayed using International Organization for Standardization (ISO) symbols instead of the telltale symbols required by FMVSS No. 101.

Jaguar stated its belief that although the instrument cluster telltales are marked with ISO symbols, the noncompliance is inconsequential to motor vehicle safety for the following reasons:

- (1) The functionality of all primary braking systems is not affected by this noncompliance and the vehicle will operate as intended.
- (2) The owner's manual shows clearly the ISO warning symbols that may be displayed along with the FMVSS No.

101 compliant equivalents. Further, the owner's manual instructions on required actions to take in the event of a warning being displayed are the same for each telltale regardless of it being marked with an ISO symbol or with its FMVSS No. 101 compliant equivalent.

- (3) The colors of the telltales adhere to a common color scheme and are consistent between ISO and FMVSS requirements. The owner's manual provides the following guidance to the driver:
  - a. RED warning lamps are for primary warnings. A primary warning must be investigated immediately by the driver or seek qualified assistance as soon as possible.
  - b. AMBER warning lamps are for secondary warnings. Some indicate that a vehicle system is in operation, others indicate that the driver must take action and then seek qualified assistance as soon as possible.
- (4) The driver will receive ISO symbol based warnings of any affected system malfunction. These warnings, although displaying telltales marked with ISO symbols, are augmented with a message center text providing

further details as to the nature of the warning symbol:

- a. If low brake fluid is detected or an Electronic Brakeforce Distribution (EBD) fault identified, the ISO Brake Warning Symbol and the words "Brake Fluid Low" or "EBD Fault" will be displayed in the message center.
- b. If the park brake is applied, the ISO Parking Brake symbol will be displayed. If the vehicle is moving in excess of 1.8 mph, the message displayed in the message center is "Caution! Park Brake Applied" and a continuous chime will sound.
- c. If an antilock brake system (ABS) malfunction is detected, the ISO ABS symbol illuminates display a message in the message center stating "ABS Fault".

(5) Jaguar is not aware of any incidents or injuries related to this condition.

Jaguar also explains that all unsold vehicles in the dealer stock will have the instrument cluster software configuration file settings updated to display the correct warning telltales as required by FMVSS No. 101 prior to sale.

In summation, Jaguar believes that the described noncompliance of its vehicles to be inconsequential to motor

vehicle safety, and that its petition, to exempt Jaguar from providing recall notification of noncompliance as required by 49 U.S.C. 30118 and remedying the recall noncompliance as required by 49 U.S.C. 30120 should be granted.

**V. NHTSA'S Analyses:** Since these vehicles are equipped with a split service brake system, a low brake fluid condition will potentially reduce the ability of the brakes on two of the four wheels to stop it. When this condition occurs in Jaguar's affected vehicles, the telltale labeled with the ISO brake symbol, which resembles a brake assembly but has no words, is displayed. In addition, in the message center, "Brake Fluid Low" is displayed. Likewise, Jaguar's ISO Park brake applied symbol (P) is accompanied by a message "Caution! Park Brake Applied" and a chime. Regarding the "ABS" telltale, the agency has learned that Jaguar labeled the "ABS" telltale as required by FMVSS Nos. 101 and 135, with letters 3.2 mm high. Therefore, Jaguar incorrectly identified this telltale in its Part 573 report, and this portion of its petition is moot.

Jaguar notified NHTSA that, as of September 19, 2013, they had corrected 95 percent of the noncompliant vehicles by its Field Service Action (FSA). Jaguar also agreed to address the remaining vehicles as part of a supplemental customer notification satisfaction campaign (CNSC) and to continue to

notify NHTSA of its progress. While NHTSA believes<sup>1</sup> that telltales labeled "BRAKE FLUID" and "PARK BRAKE" or "PARK" are more readily identified by drivers than an ISO brake symbol, the motor vehicle safety impact of the noncompliances on the remaining uncorrected vehicles is mitigated due to the unique set of indicators available to operators of the subject vehicles as well as Jaguar's ongoing CNSC.

NHTSA has also not received any consumer complaints on issues related to the subject noncompliances.

**VI. NHTSA Decision:** In consideration of Jaguar's actions and intent to remedy all vehicles, NHTSA has determined that Jaguar has met its burden of persuasion that the FMVSS No. 101 and 135 noncompliances of the subject vehicles, i.e. labeling of the brake system malfunction and park brake applied telltales, are inconsequential to motor vehicle safety. Accordingly, Jaguar's petition is hereby granted.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, this decision

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<sup>1</sup> See 60 FR 6414, February 2, 1995 and 70 FR 48295, August 17, 2005



only applies to the vehicles that Jaguar no longer controlled at the time that it determined that a noncompliance existed in the subject vehicles. However, the granting of this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant vehicles under their control after Jaguar notified them that the subject noncompliance existed.

**Authority:** (49 U.S.C. 30118, 30120: delegations of authority at CFR 1.95 and 501.8)

**Issued on:** October 29, 2013

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Claude H. Harris, Director  
Office of Vehicle Safety Compliance

**Billing Code:** 4910-59-P

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